

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1123**

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**Introduced by Assembly Member Davis**

February 27, 2009

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An act to amend Sections 22351.5 and 22358 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1123, as amended, Davis. Professions and vocations: process servers: registration.

Existing law, the violation of which is a crime, requires specified natural persons, corporations, and partnerships to register, in the county in which they reside or in which their principal place of business is located, a certificate of registration as a process server. Existing law also requires a registrant, upon initial filing, to submit to a fingerprint check to verify that the registrant has not been convicted of a felony, and specifies procedures for revoking or suspending a certificate of registration, ~~including that a hearing shall be conducted by an administrative law judge.~~

This bill would require a registrant to submit to the fingerprint check also upon renewal of a lapsed certificate of registration, ~~and would specify that a hearing be conducted by the presiding judge of the superior court.~~ Because the bill would impose additional requirements on process servers, the violation of which would be a crime, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22351.5 of the Business and Professions  
2 Code is amended to read:

3 22351.5. (a) At the time of filing an initial certificate of  
4 registration or renewing a certificate of registration that has lapsed,  
5 the registrant shall also submit a completed Request for Live Scan  
6 form confirming fingerprint submission to the Department of  
7 Justice and the Federal Bureau of Investigation, in order to verify  
8 that the registrant has not been convicted of a felony. The clerk  
9 shall utilize the Subsequent Arrest Notification Contract provided  
10 by the Department of Justice for notifications subsequent to the  
11 initial certificate of registration.

12 (b) If, after receiving the results of the Request for Live Scan,  
13 the clerk is advised that the registrant has been convicted of a  
14 felony, the presiding judge of the superior court of the county in  
15 which the certificate of registration is maintained is authorized to  
16 review the criminal record and, unless the registrant is able to  
17 produce a copy of a certificate of rehabilitation, expungement, or  
18 pardon, as specified in paragraph (2) of subdivision (a) of Section  
19 22351, notify the registrant that the registration is revoked. An  
20 order to show cause for contempt may be issued and served upon  
21 any person who fails to surrender a registered process server  
22 identification card after a notice of revocation.

23 ~~SEC. 2. Section 22358 of the Business and Professions Code~~  
24 ~~is amended to read:~~

25 ~~22358. (a) A certificate of registration may be revoked or~~  
26 ~~suspended whenever it has been determined that the registrant has~~  
27 ~~made a service of process, including service completed by an~~  
28 ~~employee or independent contractor of the registrant, which does~~  
29 ~~not comply with the provisions of law governing the service of~~  
30 ~~process in this state or constitutes an improper service of process~~  
31 ~~not amounting to a violation of law.~~

32 ~~(b) An investigation concerning the revocation or suspension~~  
33 ~~of a certificate of registration may be commenced at any time at~~

1 the option of the county clerk if the county clerk deems it to be  
2 appropriate. A complaint by any person who has alleged that he  
3 or she has been injured by a service of process shall be investigated  
4 by the public prosecutor. The investigation shall determine if the  
5 registrant complied with the provisions of law governing the  
6 service of process or constituted improper service of process not  
7 amounting to a violation of the law.

8 (e) If the public prosecutor determines from the investigation  
9 that cause may exist for the suspension or revocation of the  
10 certificate of registration, he or she shall set the matter for hearing  
11 and give notice to the registrant. That hearing shall be conducted  
12 by the presiding judge of the superior court.

13 (d) If, after the hearing, the county clerk is notified after the  
14 decision has become effective that the superior court judge has  
15 directed that the registrant's certificate be suspended or revoked,  
16 the county clerk shall forthwith suspend or revoke the certificate.  
17 If the certificate is revoked, the bond or cash deposit required by  
18 Section 22353 shall be forfeited to the county treasury subject to  
19 the right of a person to recover against the bond or cash deposit  
20 under Section 22357.

21 **SEC. 3.**

22 *SEC. 2.* No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.